

THE CITY OF NEW YORK
LAW DEPARTMENT

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February 14, 2008

BY FAX

The Honorable Naomi R. Buchwald
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Endorsement

*All the currently
contemplated discovery
will be completed by
March 31, 2008 at which
time the parties will submit a status letter to the
court. So ordered. Prathyusha Reddy*

Re: Andrew Mattox v. City of New York, et al., 07 CV 7266 (NRB)

2/21/08

Your Honor:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel, attorney for defendant City of New York. I write pursuant to the Court's direction at the December 18, 2007, initial conference, directing defendants to apprise the Court of their preferred discovery approach and the status of settlement negotiations on or before February 15, 2008.

As background, at the initial conference, the Court directed plaintiff to provide a medical release to defendants in order for defendants to obtain plaintiff's ambulance call report and the medical records from the first hospital that treated plaintiff. In addition, plaintiff – an actor – was to provide his "portfolio" or "head shot." Finally, defendants were directed to produce to plaintiff the names and contact information of non-party witnesses, if any. Plaintiff has since advised defendants that he did not have a "portfolio" or "head shot." Plaintiff has not yet produced a medical release for his ambulance call report, but has stated that he will do so within the next few days.

On February 5, 2008, defendants provided plaintiff with the name, address and cellular telephone number of a non party witness by the name of Kim Serrano. Upon information and belief, Ms. Serrano is a station agent who was working at or near the subway station when the incident occurred. On February 12, 2008, I spoke with Ms. Serrano in order to obtain the identity of any other non party witnesses. At that time, Ms. Serrano informed me that she did know the identity of another non party witness but would not provide any information at this time until her employer's legal liaison had been contacted by our office. Ms. Serrano explained that she was nervous to speak to anyone about the incident because she received what she described to be a "disturbing call" on February 5, 2008, at approximately 8:30 p.m. Ms. Serrano stated that a man called her on her cellular telephone and told her that he was a

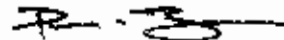
"Detective" and that he wanted to speak to her about "the guy who got his teeth smashed in." In light of the tone of the call, Ms. Serrano doubted the legitimacy of the man's identity and asked that all future inquiries be made through her employer.

I subsequently called plaintiff's attorney, Mr. Fred Lichtmacher, to advise him of the situation and to explain the reason that I did not have the identity of the other eyewitness. Mr. Lichtmacher informed me that it was his private investigator that called Ms. Serrano on February 5th and that he (Mr. Lichtmacher) subsequently called Ms. Serrano on February 7th as well. Accordingly, and in light of Ms. Serrano's request, Mr. Lichtmacher and I have agreed to begin making arrangements, through her employer's legal liaison, for Ms. Serrano's deposition. Furthermore, assuming her availability, Mr. Lichtmacher and I have agreed on a tentative date for Ms. Serrano's deposition.

In light of the above, the discovery approach that the parties intend to complete in the near future is the following: obtaining the ambulance call report and related medical documents from the first hospital that treated plaintiff and conduct the depositions of the non party witnesses. Once this discovery has been completed, the parties are hopeful that they will be in a more informed position to continue to discuss settlement.

Thank you for your consideration herein.

Respectfully submitted,



Prathyusha Reddy (PR 5579)
Assistant Corporation Counsel
Special Federal Litigation Division

cc:

BY FAX

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